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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,145	12/15/2003	Michael Bravo-Loubriel		6322

7590 10/04/2005
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EXAMINER

DEVORE, PETER T

ART UNIT PAPER NUMBER

3751

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/737,145	Applicant(s) BRAVO-LOUBRIEL	
	Examiner Peter T. deVore	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/15/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The disclosure is objected to as follows: The information on page 12 line 8 to page 13, line 3 should not be part of the summary of the invention. See MPEP 608.01(d). The information from page 18, line 12 to page 19, line 2 is not a description of the preferred embodiment. See MPEP 608.01(g).

Appropriate correction is required. See below for the appropriate content of the specification.

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they

should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Drawings

The drawings are objected to because the reference numbers have circles around them, and in Figure 1, reference number 13 points to the head instead of the upper bristle group. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The

figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites two different "access covers", one for the cartridge housing and one for the battery housing, but does not use any terminology (such as "first access cover" and "second access cover") which would differentiate them. This renders the claim indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buelow in view of Klupt, Pensky, and Raymond.

The Buelow reference discloses a toothbrush comprising a main body 12, a tube with head and outlet 14, a lower bristle group (furthest right bristle group in Figure 2), an upper bristle group (bristle group adjacent the lower bristle group in Figure 2), both groups having shorter outer than inner bristles (see Figure 2), a cartridge 16, "dispensing piping" (dispenses agent to pump) 28, "return piping" (returns agent to exterior of toothbrush) 20, a pump mechanism 38, and "operating buttons" 34 and 26, but does not disclose that the main body is a cylinder, a color-coded lever, that the bristles in the lower bristle group are shorter than the bristles in the upper bristle group, or dispensing of desensitizing agent/fluoride. However, the Klupt reference discloses a similar toothbrush which has a cylindrical main body (see Figures 1-3) for improved gripping and which dispenses fluoride (see col. 1, lines 9-10) to assist in chemically cleaning the teeth of the user. It would have been obvious to modify the Buelow main body in view of Klupt to be cylindrical for improved gripping and to employ fluoride in the agent that is dispensed to assist in chemically cleaning the teeth of the user. Also, the Pensky reference discloses a similar toothbrush having bristles in the upper bristle group shorter than bristles in the lower bristle group (see Figure 4) for improved tooth

cleaning and levers 22 and 23 for improved gripping. It would have been obvious to employ levers on the Buelow toothbrush in view of Pensky for improved gripping, and to modify the Buelow toothbrush to have bristles in the upper bristle group shorter than bristles in the lower bristle group in view of Pensky for improved tooth cleaning. Also, the Raymond reference discloses a similar toothbrush including a color-coded grip to help the user properly brush (see col. 3, lines 7-46). It would have been obvious to color-code the levers of the modified Buelow device in view of Raymond to help the user properly brush.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buelow in view of Klupt, Pensky, and Raymond, as applied to claim 1 supra, and further in view of Lustig.

The Buelow reference discloses a toothbrush as discussed supra, but does not disclose that the main body has a drive shaft, an electric motor, a housing, and an access cover. However, the Lustig reference teaches a similar toothbrush having a cylindrical body 34 with a drive shaft 42 and an electric motor 28 in a housing covered by an access cover (see Figure 2) to rotate the bristle groups for improved tooth cleaning. It would have been obvious to modify the modified Buelow device to employ a drive shaft and an electric motor in a housing covered by an access cover in the main body in view of Lustig to rotate the bristle groups for improved tooth cleaning.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buelow in view of Klupt, Pensky, and Raymond as applied to claim 1 supra, and further in view of Rauch. The Buelow reference discloses a toothbrush as discussed supra, but remains

silent as to the method of using the toothbrush. However, the Gardiner reference discloses a method of brushing teeth including gripping the toothbrush at the "levers" (see col. 6, lines 44-54 and col. 7, lines 18-23) and brushing each set of teeth with the brush at a 45 degree angle to the teeth (see Figure 16) for improved cleaning of the teeth. It would have been obvious to utilize the modified Buelow toothbrush with the method taught by Rauch for improved cleaning of the teeth.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Owens reference discloses a similar toothbrush. The Blasi and Fortenberry references disclose toothbrushes wherein the rotation direction of the bristles can be reversed. The Gardiner and Stvartak references disclose tooth brushing methods similar to that disclosed. The Jeannett reference discloses a toothbrush with a multi-colored lever as the handle. The Earle reference discloses a toothbrush with levers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T. deVore whose telephone number is (571) 272-4884. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PdPd


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9/28/05